

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
  
v.  
  
DEION KURTIS FRYBERG,  
Defendant.

CASE NO. CR 21-040-JLR  
[PROPOSED] DISCOVERY  
PROTECTIVE ORDER

This matter, having come to the Court's attention on the government's motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

**1. Protected Material.**

a. The following materials are deemed Protected Material:

- i. Tulalip Police Department body camera footage from the day of Mr. Fryberg's arrest in August 2019;
- ii. Mr. Fryberg's jail calls from the Snohomish County Jail and the Federal Detention Center at SeaTac, Washington; and
- iii. Materials related to proffers from cooperating witnesses.

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1           **2. Procedures Related to Protected Material.**

2           a. The United States will make available copies of the Protected Materials,  
3 including those filed under seal, to defense counsel to comply with the government's  
4 discovery obligations. Possession of copies of the Protected Materials is limited to the  
5 attorneys of record, and investigators, paralegals, law clerks, experts and assistants for the  
6 attorneys of record (hereinafter collectively referred to as "members of the defense team").

7           b. Defense counsel and members of the defense team may share and  
8 review the Protected Material with Mr. Fryberg. Defense counsel and members of the  
9 defense team acknowledge that providing copies of the Protected Material to Mr. Fryberg  
10 and other persons is prohibited and agree not to duplicate or provide copies of the Protected  
11 Material to Mr. Fryberg and other persons.

12           c. Additional discovery items may be deemed by the parties to constitute  
13 Protective Material upon agreement.

14           d. Any violation of these prohibitions would constitute a violation of this  
15 Protective Order. The attorneys of record for Mr. Fryberg and all members of the defense  
16 team are subject to the terms and conditions of this Protective Order. The attorneys of record  
17 for Mr. Fryberg are required to provide a copy of this Protective Order to members of the  
18 defense team, and to inform and ensure compliance with the terms of the Order by other  
19 members of the prosecution and defense teams added to the team after entry of the Order.

20           e. Members of the defense team who are not employed directly by the  
21 Office of the Federal Defender, including outside experts retained by the defense, shall  
22 provide written consent and acknowledgement that they will each be bound by the terms and  
23 conditions of this Protective Order. The written consent need not be disclosed or produced  
24 to the United States unless requested by the Special Assistant United States Attorney and  
25 ordered by the Court.

26           f. Nothing in this Order should be construed as imposing any discovery  
27 obligations on the government that are different from those imposed by case law and Rule 16  
28 of the Federal Rules of Criminal Procedure.

1           g.     *Filing.* Any protected material that is filed with the Court in connection  
2 with pre-trial motions, trial, or other matter before this Court, shall be filed under seal and  
3 shall remain sealed until otherwise ordered by this Court. This does not entitle either party  
4 to seal their filings as a matter of course. The parties are required to comply in all respects to  
5 the relevant local and federal rules of criminal procedure pertaining to the sealing of court  
6 documents.

7           h.     *Nontermination.* The provisions of this Protective Order shall not  
8 terminate at the conclusion of this prosecution.

9           i.     *Violation of any terms of the proposed order.* Any violation of any term  
10 or condition of this Protective Order by Mr. Fryberg, his attorney(s) of record, or any  
11 member of the defense team, may be held in contempt of court, and/or may be subject to  
12 monetary or other sanctions as deemed appropriate by this Court. If Mr. Fryberg violates  
13 any term or condition of this Order, the United States reserves its right to seek a sentencing  
14 enhancement for obstruction of justice, or to file any criminal charges relating to the  
15 violation.

16           j.     *Right to review.* The parties agree that in the event that compliance with  
17 this Protective Order makes it difficult for defense counsel to adhere to their Sixth  
18 Amendment obligations, or otherwise imposes an unworkable burden on counsel, defense  
19 counsel shall bring any concerns about the terms of the Order to the attention of the  
20 government. The parties shall then meet and confer with the intention of finding a mutually  
21 acceptable solution. In the event that the parties cannot reach such a solution, defense  
22 counsel shall have the right to bring any concerns about the scope or terms of this Order to

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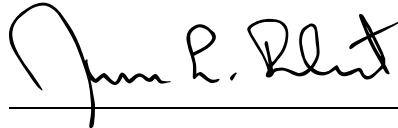
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1 the attention of the Court.

2 The Clerk of the Court is directed to provide a filed copy of this Protective Order to  
3 all counsel of record.

4 DATED this 21st day of April, 2021.

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8 THE HONORABLE JAMES L. ROBART  
9 United States District Judge

10 Presented by:

11 /s/ Stacey R. Fernandez

12 STACEY R. FERNANDEZ

13 Special Assistant United States Attorney  
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